

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

**LEO JOURNAGAN
CONSTRUCTION COMPANY, INC.**

PLAINTIFF

VS.

CIVIL CASE NO. 05-3025

MOUNTAIN HOME CONCRETE, INC.

and

TWIN LAKES PROPERTIES, INC.

DEFENDANTS

PRETRIAL DISCLOSURE SHEET

1. The identity of the parties submitting information:

Defendant Mountain Home Concrete, Inc.

2. The names, addresses, and telephone numbers of all counsel for the party:

David L. Ethredge
P.O. Box 724
Mountain Home, Arkansas 72654
870-425-8636

3. A brief summary of claims and relief sought:

Defendant Mountain Home Concrete, Inc. has not made any claims for which they are seeking relief.

Plaintiff Leo Journagan Construction Company, Inc.'s alleges that Mountain Home Concrete had willful and unlawful use of the quarry and that Mountain Home Concrete exercised dominion and control over the quarry.

4. Prospects for settlement:

The Defendant Mountain Home Concrete, Inc., paid the outstanding account due and owing to Plaintiff.

5. The basis for jurisdiction and objections to jurisdiction:

Jurisdiction is premised upon diversity and there are no objections.

6. A list of pending motions:

Defendant, Mountain Home Concrete, Inc., anticipates filing a motion in limine and motion to dismiss it as a party to the action.

7. A concise summary of the facts:

That on November 15, 2005, Mountain Home Concrete, Inc., paid its account due and owing to Plaintiff.

Mountain Home Concrete, Inc., has not accessed the quarry since March, 2005. Prior to that, Mountain Home Concrete, Inc., was the primary customer at the quarry and conducted business as usual.

8. All proposed stipulations:

None at this time, however, the Defendant believes that the parties will be able to stipulate to the admission of certain documents; that jurisdiction and venue is proper; that on November 15, 2005, Mountain Home Concrete paid its account due and owing to Plaintiff.

9. The issues of fact expected to be contested:

That there is no longer an obligation owed by Mountain Home Concrete, Inc., to Plaintiff, Leo Journagan Construction Company Inc.

Mountain Home Concrete contests that it had willful and unlawful use of the quarry and/or exercised dominion and control over the quarry. Mountain Home Concrete contends that it has not accessed the Mountain Home Quarry since March 2005 and prior to that date was the primary customer of Leo Journagan Construction Company, Inc., and conducted business as usual at the quarry.

6. The issues of law expected to be contested:

That Mountain Home Concrete, Inc., is not an entity to which the Plaintiff has any legal cause to seek any damages or action for ejectment or other relief.

11. A list and brief description of exhibits, etc.:

- a) Proof of payment made November 15, 2005 to Leo Journagan Construction Company, Inc.
- b) Incorporation document of Mountain Home Concrete, Inc.,
- c) Incorporation document of North Central Arkansas Quarry, Inc.

12. A list and brief description of charts, graphs, models, and similar objects which will be used in opening statement or closing argument whether or not they will be offered in evidence. None.

13. The names, addresses, and telephone numbers of all anticipated witnesses, segregating those witnesses the party expects to call from those the party may call, and identifying those witnesses whose testimony will be presented by deposition. (this does not include witnesses to be used solely for impeachment or rebuttal whose identity is not yet known).

Defendant expects to call the following as witnesses:

Mike Dilbeck
%Mountain Home Concrete
Rt 11 Box 283
Mountain Home, AR 75653
870-424-3839

Vickie Dilbeck
%Mountain Home Concrete
Rt 11 Box 283
Mountain Home, AR 75653
870-424-3839

Bill Starkey
Twin Lakes Property
PO Box 386
Mountain Home, AR 72653
870-424-3839

Defendant may to call the following as witnesses:

Kenneth W. Cotter
Consolidated Land Services, Inc.

2113 Hwy 62 E, #2
Mountain Home, AR 72653
870-425-6161

Charlie McFarland
%Leo Journagan
Construction Co., Inc.
3003 E Chestnut Expressway
Suite 1200
Springfield, MO 65802
417-896-2220

Noel Kerns
%Leo Journagan
Constructon. Co., Inc.
3003 E Chestnut Expressway
Suite 1200
Springfield, MO 65802
417-896-2220

Bob Neuhaus
%Mountain Home Concrete
Rt 11 Box 283
Mountain Home, AR 75653
870-424-3839

Jeff White
%Mountain Home Concrete
Rt 11 Box 283
Mountain Home, AR 75653
870-424-3839

Arlynd Mallett
PO Box 499
Mountain Home, AR 72654
870-421-4544

Marvin Boling
Cartney Road
Mountain Home, AR 72653
870-425-2559

Dennis Rains
Rt. 6 Box 365

Harrison, AR 72653
unknown

Defendant reserves the right to call any and all rebuttal witnesses and any individuals listed or identified in discovery by any party.

- 14. Any request to amend pleadings.** None.
- 15. The current status of discovery.** Complete.
- 16. Suggestions for expediting disposition of the action.** None.
- 17. An estimate of the length of trial.** Two days.
- 18. Indicate whether you agree to a six (6) person jury.** Non-applicable.

RESPECTFULLY SUBMITTED,

MOUNTAIN HOME CONCRETE, INC.

/s/ David L. Ethredge

By:

David L. Ethredge (Bar #89156)
ATTORNEY FOR DEFENDANT
OSMON & ETHREDGE, P.A.
119 E. 6th Street, P.O. Box 724
Mountain Home, AR 72654-0724
(870) 425-8636

CERTIFICATE OF SERVICE

This will certify that the foregoing instrument was served on the Plaintiff by mailing a copy to its attorney Christina D. Comstock, Jones & Harper, 21 West Mountain, Suite 300, Fayetteville, AR 72701, and to Separate Defendant Mountain Home Concrete, Inc.'s attorney, David L. Osmon, PO Box 724, Mountain Home, AR 72653, on this 21st day of November, 2005.

/s/ David L. Ethredge

David L. Ethredge